# SUPREME COURT OF THE UNITED STATES

## OCTOBER TERM, 1933

# No. 434

ADA L. BURROUGHS AND JAMES CANNON, JR.,
PETITIONERS,

*vs.*

THE UNITED STATES OF AMERICA

ON WRIT OF CERTIORARI TO THE COURT OF APPEALS OF THE DISTRICT OF COLUMBIA

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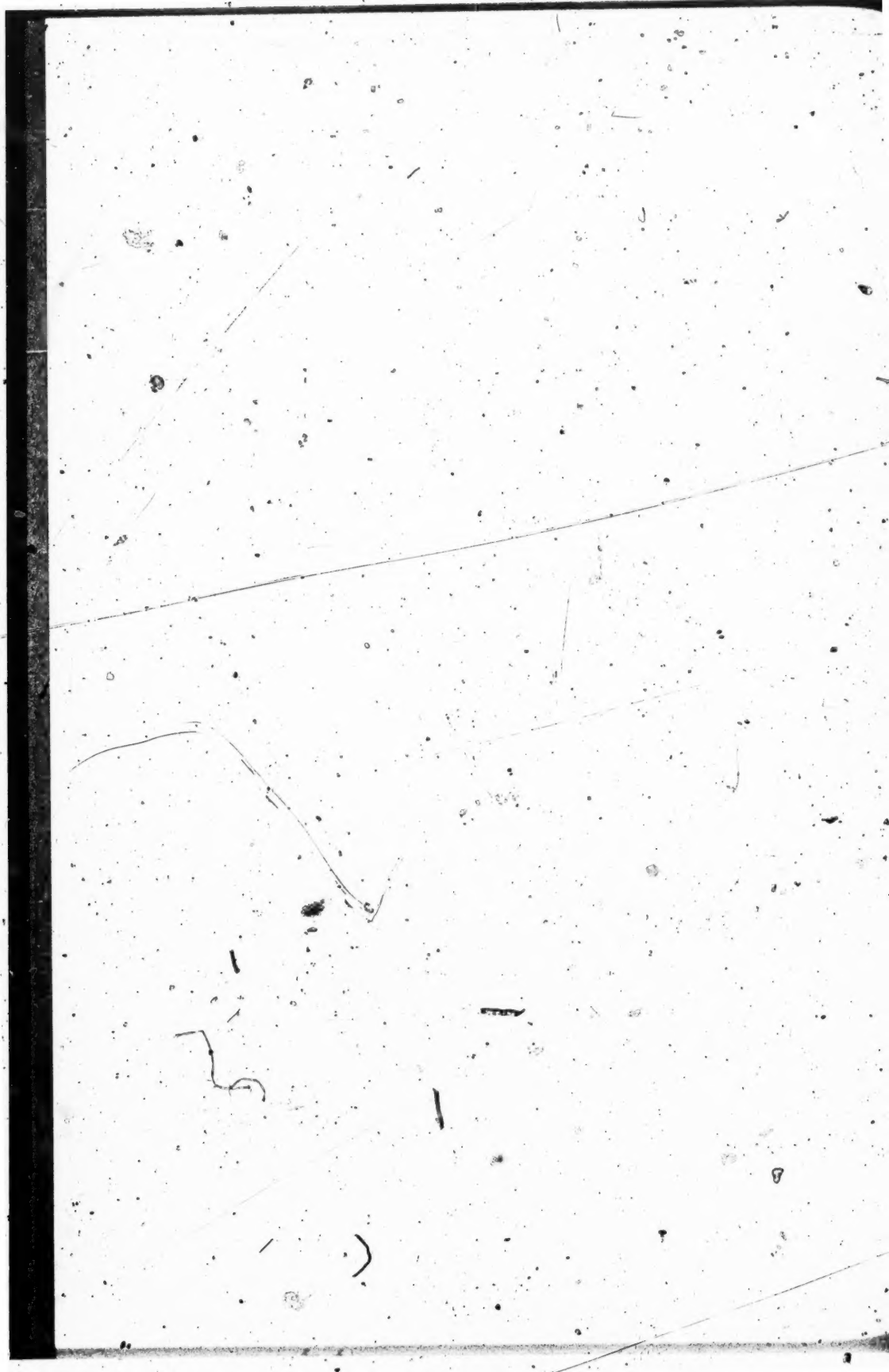

[fols. a & 1]

# SUPREME COURT OF THE DISTRICT OF COLUMBIA

Criminal. No. 51159

UNITED STATES

vs.

ADA L. BURROUGHS and JAMES CANNON, JR.

[Caption omitted]

IN SUPREME COURT OF THE DISTRICT OF COLUMBIA, HOLDING A CRIMINAL TERM OF THE OCTOBER TERM, IN THE YEAR 1931

INDICTMENT—Filed in Open Court October 16, 1931

## First Count

DISTRICT OF COLUMBIA, ss:

The grand jurors for the United States of America, empaneled and sworn in the Supreme Court of the District of Columbia, holding a criminal term at the October term of said court in the year 1931, and inquiring for said District of Columbia, upon their oath present that Ada L. Burroughs, late of the District of Columbia, throughout the period of time extending from July 22, 1928, to and including March 16, 1929, was the treasurer of a certain political committee which then accepted contributions and made expenditures for the purpose of influencing and attempting to influence the election of presidential and vice presidential electors in two States, the name of which said committee then was "Headquarters Committee Anti-Smith Democrats"; that at divers times during said period of time contributions of money were made by one E. C. Jameson, of New York City, New York, for said political committee, as shown by the following table:

| | |
|---|---|
| $10,000.00 | September 18, 1928 |
| $10,000.00 | September 28, 1928 |
| $10,000.00 | October 9, 1928 |
| $5,000.00 | October 16, 1928 |
| $5,000.00 | October 16, 1928 |
| $8,000.00 | October 19, 1928 |
| $10,000.00 | October 19, 1928 |

and that it thereafter, and during said period of time, to wit, between the 10th and 15th days next preceding November 6, 1928, the date on which a general election was held at which candidates and presidential and vice presidential electors were elected in the several States of the United States, became and was the lawful duty of said Ada L. Bur- [fol. 2] roughs, as such treasurer of said political committee, to file with the Clerk of the House of Representatives of the United States a statement, complete as of the day next preceding the date of the filing thereof, if it should be filed, containing the name and address of said E. C. Jameson, the person who made said contributions for said political committee as aforesaid, together with the amount and date of each of said contributions.

And the grand jurors aforesaid, upon their oath aforesaid, do further present, that said Ada L. Burroughs, during said period of time, and while she was such treasurer of said political committee, to wit, at all times between said 10th and 15th days next preceding said November 6, 1928, unlawfully and feloniously did willfully violate a certain provision of chapter 8 of title 2 of the United States Code, to wit, the provision in section 244 of said title requiring her, as treasurer of said political committee, to file with said Clerk of the House of Representatives of the United States, between said 10th and 15th days next preceding said general election, a statement pertaining to the contributions aforesaid and containing the information aforesaid, by then and there unlawfully and feloniously willfully failing to file with said Clerk, to wit, in said District of Columbia, any such statement, or any statement whatever, pertaining to said contribution, containing any such information.

And the grand jurors aforesaid, upon their oath aforesaid, do further present, that James Cannon, Jr., during said period of time, to wit, between said 10th and 15th days next preceding said general election, at and within said District of Columbia, then and there well knowing all the premises aforesaid, and well knowing said Ada L. Burroughs to be such treasurer of said political committee, and to be required by law, as such treasurer, to file such statement pertaining to said contributions of said E. C. Jameson for said political committee with said Clerk, unlawfully and feloniously did willfully aid, abet, counsel, command, induce, and procure, and advise, incite, and connive at the

commission of the above-described offense on the part of said Ada L. Burroughs of willfully violating said provision of said chapter 8 of said title 2 of said United States Code, and so then and there was a principal in the commission of that offense.

Against the peace and dignity of the United States, and contrary to the form of the statute of the same in such case made and provided.

Second Count

And the grand jurors aforesaid, upon their oath aforesaid, do further present, that said Ada L. Burroughs, throughout the period of time extending from July 22, 1928, to and including March 16, 1929, was the treasurer of a certain political committee which then accepted contributions and made expenditures for the purpose of influencing and attempting to influence the election of presidential and vice presidential electors in two States, the name of which said committee then was "Headquarters committee anti-Smith Democrats"; that at divers times during said period of time contributions of money were made by one E. C. Jameson, of New York City, New York, for said political committee, as shown by the following table:

| | |
|---|---|
| [fol. 3] $10,000.00 | September 18, 1928 |
| $10,000.00 | September 28, 1928 |
| $10,000.00 | October 9, 1928 |
| $5,000.00 | October 16, 1928 |
| $5,000.00 | October 16, 1928 |
| $8,000.00 | October 19, 1928 |
| $10,000.00 | October 19, 1928 |

And that it thereafter, and during said period of time, to wit, between the 10th and 15th days next preceding November 6, 1928, the date on which a general election was held at which candidates and presidential and vice presidential electors were elected in the several States of the United States, became and was the lawful duty of said Ada L. Burroughs, as such treasurer of said political committee, to file with the Clerk of the House of Representatives of the United States a statement, complete as of the day next preceding the date of the filing thereof, if it should be filed, containing the name and address of said E. C. Jameson, the person who made said contributions for said political com-

mittee as aforesaid, together with the amount and date of each of said contributions.

And the grand jurors aforesaid, upon their oath aforesaid, do further present, that said Ada L. Burroughs, during said period of time, and while she was such treasurer of said political committee, to wit, at all times between said 10th and 15th days next preceding said November 6, 1928, unlawfully did violate a certain provision of chapter 8, of title 2, of the United States Code, to wit, the provision in section 244 of said title requiring her, as treasurer of said political committee, to file with said Clerk of the House of Representatives of the United States, between said 10th and 15th days next preceding said general election, a statement pertaining to the contributions aforesaid, and containing the information aforesaid, by then and there unlawfully failing to file with said Clerk, to wit, in said District of Columbia, any such statement, or any statement whatever, pertaining to said contributions, containing any such information.

And the grand jurors aforesaid, upon their oath aforesaid, do further present, that said James Cannon, Jr., during said period of time, to wit, at all times between said 10th and 15th days next preceding said general election, at and within said District of Columbia, then and there well knowing all the premises aforesaid, and well knowing said Ada L. Burroughs to be such treasurer of said political committee, and to be required by law, as such treasurer, to file such statement pertaining to said contributions of said E. C. Jameson for said political committee with said Clerk, unlawfully did willfully aid, abet, counsel, command, induce and procure, and advise, incite, and connive at, the commission of the last above-described offense on the part of said Ada L. Burroughs of violating said provision of said chapter 8 of said title 2 of said United States Code, and so then and there was a principal in the commission of that offense.

Against the peace and dignity of the United States, and contrary to the form of the statute of the same in such case made and provided.

[fol. 4] Third Count

And the grand jurors aforesaid, upon their oath aforesaid, do further present, that said Ada L. Burroughs, throughout the period of time extending from July 22, 1928,

to and including March 16, 1929, was the treasurer of a certain political committee which then accepted contributions and made expenditures for the purpose of influencing and attempting to influence the election of presidential and vice presidential electors in two States, the name of which said committee then was "Headquarters Committee Anti-Smith Democrats"; that at divers times during said period of time contributions of money were made by one E. C. Jameson, of New York City, New York, for said political committee, as shown by the following table:

| | |
|---|---|
| $10,000.00 | September 18, 1928 |
| $10,000.00 | September 28, 1928 |
| $10,000.00 | October 9, 1928 |
| $5,000.00 | October 16, 1928 |
| $5,000.00 | October 16, 1928 |
| $8,000.00 | October 19, 1928 |
| $10,000.00 | October 19, 1928 |

and that thereafter, and during said period of time, to wit, on the 5th day next preceding November 6, 1928, the date on which a general election was held at which candidates and presidential and vice presidential electors were elected in the several States of the United States, it became and was the lawful duty of said Ada L. Burroughs, as such treasurer of said political committee, to file with the Clerk of the House of Representatives of the United States a statement, complete as of the day next preceding the date of the filing thereof, if it should be filed, containing the name and address of said E. C. Jameson, the person who made said contributions for said political committee as aforesaid, together with the amount and date of each of said contributions.

And the grand jurors aforesaid, upon their oath aforesaid, do further present, that said Ada L. Burroughs, during said period of time, and while she was such treasurer of said political committee, to wit, on said 5th day next preceding said November 6, 1928, unlawfully and feloniously did willfully violate a certain provision of chapter 8, of title 2, of the United States Code, to wit, the provision in section 244 of said title requiring her, as treasurer of said political committee, to file with said Clerk of the House of Representatives of the United States, on said 5th day next preceding said general election, a statement pertain-

ing to the contributions aforesaid and containing the information aforesaid, by then and there unlawfully and feloniously willfully failing to file with said Clerk, to wit, in said District of Columbia, any such statement, or any statement whatever pertaining to said contributions, containing any such information.

And the grand jurors aforesaid, upon their oath aforesaid, do further present, that James Cannon, Jr., during said period of time, to wit, on said 5th day next preceding said general election, at and within said District of Columbia, then and there well knowing all the premises aforesaid, and well knowing said Ada L. Burroughs to be such [fol. 5] treasurer of said political committee, and to be required by law, as such treasurer, to file such statement pertaining to said contributions of said E. C. Jameson for said political committee with said Clerk, unlawfully and feloniously did willfully aid, abet, counsel, command, induce and procure, and advise, incite, and connive at, the commission of the above-described offense on the part of said Ada L. Burroughs of willfully violating said provision of said chapter 8 of said title 2 of said United States Code, and so then and there was a principal in the commission of that offense.

Against the peace and dignity of the United States, and contrary to the form of the statute of the same in such case made and provided.

Fourth Count

And the grand jurors aforesaid, upon their oath aforesaid, do further present, that said Ada L. Burroughs, throughout the period of time extending from July 22, 1928, to and including March 16, 1929, was the treasurer of a certain political committee which then accepted contributions and made expenditures for the purpose of influencing and attempting to influence the election of presidential and vice presidential electors in two States, the name of which said committee then was "Headquarters Committee Anti-Smith Democrats"; that at divers times during said period of time contributions of money were made by one E. C. Jameson, of New York City, New York, for said political committee, as shown by the following table:

| | |
|---|---|
| $10,000.00 | September 18, 1928 |
| $10,000.00 | September 18, 1928 |

| | |
|---|---|
| $10,000.00 | October 9, 1928 |
| $5,000.00 | October 16, 1928 |
| $5,000.00 | October 16, 1928 |
| $8,000.00 | October 19, 1928 |
| $10,000.00 | October 19, 1928 |

and that thereafter, and during said period of time, to wit, on said 5th day next preceding November 6, 1928, the date on which a general election was held at which candidates and presidential and vice presidential electors were elected in the several States of the United States, it became and was the lawful duty of said Ada L. Burroughs, as such treasurer of said political committee, to file with the Clerk of the House of Representatives of the United States a statement, complete as of the day next preceding the date of the filing thereof, if it should be filed, containing the name and address of said E. C. Jameson, the person who made said contributions for said political committee as aforesaid, together with the amount and date of each of said contributions.

And the grand jurors aforesaid, upon their oath aforesaid, do further present, that said Ada L. Burroughs, during said period of time, and while she was such treasurer of said political commitee, to wit, on said 5th day next preceding said November 6, 1928, unlawfully, did violate a certain provision of chapter 8, of title 2, of the United States Code, to wit, the provision in section 244 of said title requiring her, as treasurer of said political committee, to file with [fol. 6] said Clerk of the House of Representatives of the United States, on said 5th day next preceding said general election, a statement pertaining to the contributions aforesaid and containing the information aforesaid, by then and there unlawfully failing to file with said Clerk, to wit, in said District of Columbia, any such statement, or any statement whatever, pertaining to said contributions, containing any such information.

And the grand jurors aforesaid, upon their oath aforesaid, do further present, that said James Cannon, Jr., during said period of time, to wit, on said 5th day next preceding said general election, at and within said District of Columbia, then and there well knowing all the premises aforesaid, and well knowing said Ada L. Burroughs to be such treasurer of said political committee, and to be required by law, as such treasurer, to file such statement per-

taining to said contributions of said E. C. Jameson for said political committee with said Clerk, unlawfully did aid, abet, counsel, command, induce and procure, and advise, incite, and connive at, the commission of the last above-described offense on the part of said Ada L. Burroughs of violating said provision of said chapter 8 of said title 2 of said United States Code, and so then and there was a principal in the commission of that offense.

Against the peace and dignity of the United States, and contrary to the form of the statute of the same in such case made and provided.

Fifth Count

And the grand jurors aforesaid, upon their oath aforesaid, do further present, that said Ada L. Burroughs, throughout the period of time extending from July 22, 1928, to and including March 16, 1929, was the treasurer of a certain political committee which then accepted contributions and made expenditures for the purpose of influencing and attempting to influence the election of presidential and vice presidential electors in two States, the name of which said committee then was "Headquarters Committee Anti-Smith Democrats;" that at divers times during said period of time and during the calendar year 1928, contributions of money were made by one E. C. Jameson, of New York City, New York, for said political committee, as shown by the following table:

| | |
|---|---|
| $10,000.00 | September 18, 1928 |
| $10,000.00 | September 28, 1928 |
| $10,000.00 | October 9, 1928 |
| $5,000.00 | October 16, 1928 |
| $5,000.00 | October 16, 1928 |
| $8,000.00 | October 19, 1928 |
| $10,000.00 | October 19, 1928 |
| $4,300.00 | December 6, 1928 |

And that thereafter, and during said period of time, to wit, on the 1st day of January, 1929, it became and was the lawful duty of said Ada L. Burroughs, as such treasurer of said political committee, to file with the Clerk of the House of Representatives of the United States a statement covering the calendar year 1928 and containing the name and address of said E. C. Jameson, the person who made said contributions for said political committee as aforesaid, to-

gether with the amount and date of each of said contributions.

[fol. 7] And the grand jurors aforesaid, upon their oath aforesaid, do further present, that said Ada L. Burroughs, during said period of time, and while she was such treasurer of said political committee, to wit, on said 1st day of January, 1929, unlawfully and feloniously did willfully violate a certain provision of chapter 5, of title 2, of the United States Code, to wit, the provision in section 244 of said title requiring her, as treasurer of said political committee, to file with said Clerk of the House of Representatives of the United States, on said 1st day of January, 1929, a statement pertaining to the contributions aforesaid and containing the information aforesaid, by then and there unlawfully and feloniously willfully failing to file with said Clerk, to wit, in said District of Columbia, any such statement, or any statement whatever, pertaining to said contributions, containing any such information.

And the grand jurors aforesaid, upon their oath aforesaid, do further present, that James Cannon, jr., during said period of time, to wit, on said 1st day of January, 1929, at and within said District of Coumbia, then and there well knowing all the premises aforesaid, and well knowing said Ada L. Burroughs to be such treasurer of said political committee, and to be required by law, as such treasurer, then to file such statement pertaining to said contributions of said E. C. Jameson for said political committee with said Clerk, unlawfully and feloniously did willfully aid, abet, counsel, command, induce and procure, and advise, incite, and connive at, the commission of the last above-described offense on the part of said Ada L. Burroughs of willfully violating said provision of said chapter 8 of said title 2 of said United States Code, and so then and there was a principal in the commission of that offense.

Against the peace and dignity of the United States, and contrary to the form of the statute of the same in such case made and provided.

Sixth Count

And the grand jurors aforesaid, upon their oath aforesaid, do further present, that said Ada L. Burroughs, throughout the period of time extending from July 22, 1928, to and including March 16, 1929, was the treasurer of a

certain political committee which then accepted contributions and made expenditures for the purpose of influencing and attempting to influence the election of presidential and vice presidential electors in two States, the name of which said committee then was "Headquarters Committee Anti-Smith Democrats"; that at divers times during said period of time and during the calendar year 1928 contributions of money were made by one E. C. Jameson, of New York City, New York, for said political committee, as shown by the following table:

| | |
|---|---|
| $10,000.00 | September 18, 1928 |
| $10,000.00 | September 28, 1928 |
| $10,000.00 | October 9, 1928 |
| $5,000.00 | October 16, 1928 |
| $5,000.00 | October 16, 1928 |
| $8,000.00 | October 19, 1928 |
| $10,000.00 | October 19, 1928 |
| $4,300.00 | December 6, 1928 |

[fol. 8] and that thereafter, and during said period of time, to wit, on said 1st day of January, 1929, it became and was the lawful duty of said Ada L. Burroughs, as such treasurer of said political committee, to file with the Clerk of the House of Representatives of the United States a statement covering the calendar year 1928 and containing the name and address of said E. C. Jameson, the person who made said contributions for said political committee as aforesaid, together with the amount and date of each of said contributions.

And the grand jurors aforesaid, upon their oath aforesaid, do further present, that said Ada L. Burroughs during said period of time and while she was such treasurer of said political committee, to wit, on said 1st day of January, 1929, unlawfully did violate a certain provision of chapter 8, of title 2, of the United States Code, to wit, the provision in section 244 of said title requiring her, as treasurer of said political committee, to file with said Clerk of the House of Representatives of the United States, on said 1st day of January, 1929, a statement pertaining to the contributions aforesaid and containing the information aforesaid, by then and there unlawfully failing to file with said Clerk, to wit, in said District of Columbia, any such statement, or any statement whatever, pertaining to said contributions, containing any such information.

And the grand jurors aforesaid, upon their oath aforesaid, do further present, that said James Cannon, jr., during said period of time, to wit, on said 1st day of January, 1929, at and within said District of Columbia, then and there well knowing all the premises aforesaid, and well knowing said Ada L. Burroughs to be such treasurer of said political committee, and to be required by law as such treasurer, then to file such statement pertaining to said contributions of said E. C. Jameson for said political committee with said Clerk, unlawfully did aid, abet, counsel, command, induce and procure, and advise, incite, and connive at, the commission of the last above-described offense on the part of said Ada L. Burroughs of violating said provision of said chapter 8 of said title 2 of said United States Code, and so then and there was a principal in the commission of that offense.

Against the peace and dignity of the United States, and contrary to the form of the statute of the same in such case made and provided.

Seventh Count

And the grand jurors aforesaid upon their oath aforesaid, do further present, that said Ada L. Burroughs, throughout the period of time extending from July 22, 1928, to and including March 16, 1929, was the treasurer of a certain political committee which then accepted contributions and made expenditures for the purpose of influencing and attempting to influence the election of presidential and vice presidential electors in two States, the name of which said committee then was "Headquarters Committee Anti-Smith Democrats"; that during said period of time and during the calendar year 1929, to wit, on January 14, 1929, a contribution of money, to wit, three thousand dollars, was made by one E. C. Jameson, of New York City, New York, for said political committee; and that thereafter, and dur-
[fol. 9] ing said period of time, to wit, between the 1st and 10th days of March, 1929, it became and was the lawful duty of said Ada L. Burroughs, as such treasurer of said political committee to file with the Clerk of the House of Representatives of the United States a statement, complete as of the day next preceding the day of the filing thereof, if filed, and containing the name and address of said E. C. Jameson, the person who made said last-mentioned

contribution for said political committee as aforesaid, together with the amount and date of said contribution.

And the grand jurors aforesaid, upon their oath aforesaid, do further present, that said Ada L. Burroughs, during said period of time, and while she was such treasurer of said political committee, to wit, at all times between said 1st and 10th days of March, 1929, unlawfully and feloniously did willfully violate a certain provision of chapter 8, of title 2, of the United States Code, to wit, the provision in section 244 of said title requiring her, as treasurer of said political committee, to file with said Clerk of the House of Representatives of the United States, between said 1st and 10th days of March, 1929, a statement pertaining to the contribution last aforesaid and containing the information in this count of this indictment aforesaid, by then and there unlawfully and feloniously willfully failing to file with said clerk, to wit, in said District of Columbia, any such statement, or any statement whatever, pertaining to said contribution and containing any such information.

And the grand jurors aforesaid, upon their oath aforesaid, do further present, that said James Cannon, jr., during said period of time, to wit, at all times between said 1st and 10th days of March, 1929, at and within said District of Columbia, then and there well knowing all the premises in this count aforesaid, and well knowing said Ada L. Burroughs to be such treasurer of said political committee, and to be required by law, as such treasurer, under the circumstances and conditions aforesaid, then to file such statement pertaining to said contribution of said E. C. Jameson for said political committee with said clerk, unlawfully and feloniously did willfuly aid, abet, counsel, command, induce and procure, and advise, incite, and connive at, the commission of the last above-described offense on the part of said Ada L. Burroughs of willfully violating said provision of said chapter 8 of said title 2 of said United States Code in the manner in this count aforesaid, and so then and there was a principal in the commission of that offense.

Against the peace and dignity of the United States, and contrary to the form of the statute of the same in such case made and provided.

Eighth Count

And the grand jurors aforesaid, upon their oath aforesaid, do further present, that said Ada L. Burroughs,

throughout the period of time extending from July 22, 1928, to and including March 16, 1929, was the treasurer of a certain political committee which then accepted contributions and made expenditures for the purpose of influencing and attempting to influence the election of presidential and vice presidential electors in two States, the name of which said committee then was "Headquarters [fol. 10] Committee Anti-Smith Democrats"; that during said period of time and during the calendar year 1929, to wit, on January 14, 1929, a contribution of money, to wit, three thousand dollars, was made by one E. C. Jameson, of New York City, New York, for said political committee; and that thereafter, and during said period of time, to wit, between said 1st and 10th days of March, 1929, it became and was the lawful duty of said Ada L. Burroughs, as such treasurer of said political committee, to file with the Clerk of the House of Representatives of the United States a statement, complete as of the day next preceding the day of the filing thereof, if filed, containing the name and address of said E. C. Jameson, the person who made said last-mentioned contribution for said political committee as aforesaid, together with the amount and date of said contribution.

And the grand jurors aforesaid, upon their oath aforesaid, do further present, that said Ada L. Burroughs, during said period of time, and while she was such treasurer of said political committee, to wit, at all times between said 1st and 10th days of March, 1929, unlawfully did violate a certain provision of chapter 8, of title 2, of the United States Code, to wit, the provision in section 244 of said title requiring her, as treasurer of said political committee, to file with said Clerk of the House of Representatives of the United States, between said 1st and 10th days of March, 1929, a statement pertaining to the contribution aforesaid and containing the information aforesaid, by then and there unlawfully failing to file with said Clerk, to wit, in said District of Columbia, any such statement, or any statement whatever, pertaining to said contribution and containing any such information.

And the grand jurors aforesaid, upon their oath aforesaid, do further present, that said James Cannon, jr., during said period of time, to wit, at all times between said 1st and 10th days of March, 1929, at and within said Dis-

trict of Columbia, then and there well knowing all the premises in this count aforesaid, and well knowing said Ada L. Burroughs to be such treasurer of said political committee, and to be required by law, as such treasurer, under the circumstances and conditions aforesaid, then to file such statement pertaining to said contribution of said E. C. Jameson for said political committee with said Clerk, unlawfully did willfully aid, abet, counsel, command, induce and procure, and advise, incite, and connive at, the commission of the last above-described offense on the part of said Ada L. Burroughs of unlawfully in the manner in this count aforesaid violating said provision of said chapter 8 of said title 2 of said United States Code, and so then and there was a principal in the commission of that offense.

Against the peace and dignity of the United States, and contrary to the form of the statute of the same in such case made and provided.

Ninth Count

And the grand jurors aforesaid, upon their oath aforesaid, do further present, that said Ada L. Burroughs, throughout said period of time extending from July 22, 1928, to and including March 16, 1929, was the treasurer of a certain political committee which during that period ac- [fol. 11] cepted contributions and made expenditures for the purpose of influencing and attempting to influence the election of presidential and vice presidential electors in two States, the name of which said committee then was "Headquarters Committee Anti-Smith Democrats"; that at divers times during said period of time contributions of money were made by one E. C. Jameson of New York City, New York, for said political committee, as shown by the following table:

| | |
|---|---|
| $10,000.00 | September 18, 1928 |
| $10,000.00 | September 28, 1928 |
| $10,000.00 | October 9, 1928 |
| $5,000.00 | October 16, 1928 |
| $5,000.00 | October 16, 1928 |
| $8,000.00 | October 19, 1928 |
| $10,000.00 | October 19, 1928 |
| $4,300.00 | December 6, 1928 |
| $3,000.00 | January 14, 1929 |

and that at certain times during said period of time, to wit, between the 10th and 15th days next preceding November 6, 1928, the date on which a general election was held at which candidates and presidential and vice presidential electors were elected in the several States of the United States, on the 5th day next preceding said date of November 6, 1928, on the first day of January, 1929 and between the 1st and 10th days of March, 1929, it became and was the lawful duty of said Ada L. Burroughs, as such treasurer of said political committee, to file with the Clerk of the House of Representatives of the United States, to wit, in said District of Columbia, a statement, complete as of the day next preceding the date of filing thereof, if filed, containing the name and address of said E. C. Jameson, the person who made said contributions for said political committee as aforesaid, together with the amount and date of any of said contributions made before the time when any of said statements was so required to be filed.

And the grand jurors aforesaid, upon their oath aforesaid, do further present, that said Ada L. Burroughs and James Cannon, jr., hereinafter called defendants, said James Cannon, jr., throughout said period of time, being the chairman of said political committee, continuously throughout said period of time, and while said Ada L. Burroughs was such treasurer of said political committee and said James Cannon, jr., was chairman thereof as aforesaid, each of said defendants then well knowing all the premises aforesaid, unlawfully and feloniously did conspire, combine, confederate, and agree together, and with divers other persons to said grand jurors unknown, to commit divers, to wit, four, offenses against the United States, that is to say, the four willfully-committed offenses on the part of said Ada L. Burroughs, as treasurer of said political committee, charged against her in the first, third, fifth, and seventh counts of this indictment, the allegations of which said counts descriptive of said offenses respectively, and of the circumstances and conditions under which they were so committed, are incorporated in this count, by reference to said first, third, fifth, and seventh counts, as fully as if they were here repeated.

[fol. 12] Overt Acts

And the grand jurors aforesaid, upon their oath aforesaid, do further present, that said defendants, at the sev-

eral times and places hereinafter mentioned in connection with their names, and to effect the object of said unlawful and felonious conspiracy, combination, confederation and agreement, did do, among many others, certain acts; that is to say:

1. Said Ada L. Burroughs, as treasurer of said political committee, on October 30, 1928, at and within said District of Columbia, filed with the Clerk of the House of Representatives of the United States a certain written report of said Ada L. Burroughs as such treasurer purporting to show receipts and disbursements of said political committee from September 1, 1928, through October 25, 1928.

2. Said Ada L. Burroughs, as treasurer of said political committee, on November 3, 1928, at and within said District of Columbia, filed with said Clerk of the House of Representatives of the United States a certain other written report of said Ada L. Burroughs as such treasurer purporting to show receipts and disbursements of said political committee from October 26, 1928, through November 1, 1928.

3. Said Ada L. Burroughs, as treasurer of said political committee, on January 2, 1929, at and within said District of Columbia, filed with said Clerk of the House of Representatives of the United States a certain other written report of said Ada L. Burroughs as such treasurer purporting to show receipts and disbursements of said political committee from July, 1928, to January 1, 1929.

4. Said Ada L. Burroughs, as treasurer of said political committee, on February 15, 1929, at and within said District of Columbia, filed with said Clerk of the House of Representatives of the United States a certain other written report of said Ada L. Burroughs as such treasurer purporting to show receipts and disbursements of said political committee from January 1, 1929, to February 11, 1929.

5. Said James Cannon, jr., on October 17, 1928, at and within said District of Columbia, deposited in the bank of the Continental Trust Company there, to the credit of the account of "James Cannon, jr., chairman," two certain checks, each dated New York, October 16, 1928, and drawn by said E. C. Jameson upon the Lawyers Trust Company of New York, for the payment of $5,000.00 to the order of

said James Cannon, jr., one of said checks being number 1785 and the other 1786.

6. Said James Cannon, jr., on October 23, 1928, at and within the District of Columbia, paid the sum of $2,000.00 to said political committee.

7. Said James Cannon, jr., on said October 23, 1928, at and within said District of Columbia, paid the sum of $832.50 to said political committee.

8. Said James Cannon, jr., on February 12, 1929, at and within said District of Columbia, sent by telegraph of the Postal Telegraph-Cable Company to said E. C. Jameson a certain day letter, that is to say, a day letter of the tenor following:

[fol. 13] [Day Letter]

February 12, 1929.

E. C. Jameson, Mountain Lake Club, Lake Wales, Florida:

Tried talk long distance New York, but office closed Lincoln's birthday. After careful examination records, think statement should be Quote Paid Headquarters Committee Anti-Smith Democrats seventeen thousand three hundred, paid Virginia Committee Anti-Smith Democrats forty-eight thousand, making total sixty-five thousand three hundred. End Quote. This will correspond exactly with our official reports. Call Lincoln two-nine-four-six Washington any time after eight-thirty until midnight to-night, when leaving for New York. Sailing Thursday.

James Cannon, Jr.

Conclusion

And so the grand jurors aforesaid, upon their oath aforesaid, do say, that said defendants, at the time and place in this count aforesaid, in manner and form in this count aforesaid, unlawfully and feloniously did conspire to commit offenses against the United States and at the several times and at the place aforesaid did do acts to effect the object of the conspiracy: Against the peace and dignity of the United States, and contrary to the form of the statute of the same in such case made and provided.

Tenth Count

And the grand jurors aforesaid, upon their oath aforesaid, do further present, that said Ada L. Burroughs, throughout said period of time extending from July 22, 1928, to and including March 16, 1929, was the treasurer of a certain political committee which during that period accepted contributions and made expenditures for the purpose of influencing and attempting to influence the election of presidential and vice presidential electors in two States, the name of which said committee then was "Headquarters Committee Anti-Smith Democrats"; that at divers times during said period of time contributions of money were made by one E. C. Jameson, of New York City, New York, for said political committee, as shown by the following table:

| | |
|---|---|
| $10,000.00 | September 18, 1928 |
| $10,000.00 | September 28, 1928 |
| $10,000.00 | October 9, 1928 |
| $5,000.00 | October 16, 1928 |
| $5,000.00 | October 16, 1928 |
| $8,000.00 | October 19, 1928 |
| $10,000.00 | October 19, 1928 |
| $4,300.00 | December 6, 1928 |
| $3,000.00 | January 14, 1929 |

and that at certain times during said period of time, to wit, between the 10th and 15th days next preceding November 6, 1928, the date on which a general election was held at which candidates and presidential and vice presidential electors were elected in the several States of the United States, [fol. 14] on the 5th day next preceding said date of November 6, 1928, on the first day of January, 1929, and between the 1st and 10th days of March, 1929, it became and was the lawful duty of said Ada L. Burroughs, as such treasurer of said political committee, to file with the Clerk of the House of Representatives of the United States, to wit, in said District of Columbia, a statement, complete as of the day next preceding the date of the filing thereof, if filed, containing the name and address of said E. C. Jameson, the person who made said contributions for said political committee as aforesaid, together with the amount and date of any of said contributions made before the time when any of said statements was so required to be filed.

And the grand jurors aforesaid, upon their oath aforesaid, do further present, that said Ada L. Burroughs and James Cannon, jr., hereinafter called defendants, said James Cannon, jr., throughout said period of time, being the chairman of said political committee, continuously throughout said period of time, and while said Ada L. Burroughs was such treasurer of said political committee and said James Cannon, jr., was chairman thereof as aforesaid, each of said defendants then well knowing all the premises aforesaid, unlawfully and feloniously did conspire, combine, confederate and agree together, and with divers other persons to said grand jurors unknown, to commit divers, to wit, four, other offenses against the United States, that is to say, the four offenses on the part of said Ada L. Burroughs, as treasurer of said political committee, charged against her in the second, fourth, sixth, and eighth counts of this indictment, the allegations of which said counts descriptive of said offenses respectively, and of the circumstances and conditions under which they were so committed, are incorporated in this count, by reference to said second, fourth, sixth, and eighth counts, as fully as if they were here repeated.

Overt Acts

And the grand jurors aforesaid, upon their oath aforesaid, do further present, that said defendants, at the several times and places hereinafter mentioned in connection with their names, and to effect the object of the unlawful and felonious conspiracy, combination, confederation and agreement in this count charged, did do, among many others, certain acts; that is to say:

1. Said Ada L. Burroughs, as treasurer of said political committee, on October 30, 1928, at and within said District of Columbia, filed with the Clerk of the House of Representatives of the United States a certain written report of said Ada L. Burroughs as such treasurer purporting to show receipts and disbursements of said political committee from September 1, 1928, through October 25, 1928.

2. Said Ada L. Burroughs, as treasurer of said political committee, on November 3, 1928, at and within said District of Columbia, filed with said Clerk of the House of Representatives of the United States a certain other written report of said Ada L. Burroughs as such treasurer purport-

ing to show receipts and disbursements of said political committee from October 26, 1928, through November 1, 1928.

[fol. 15] 3. Said Ada L. Burroughs, as treasurer of said political committee, on January 2, 1929, at and within said District of Columbia, filed with said Clerk of the House of Representatives of the United States a certain other written report of said Ada L. Burroughs as such treasurer purporting to show receipts and disbursements of said political committee from July, 1928, to January 1, 1929.

4. Said Ada L. Burroughs, as treasurer of said political committee, on February 15, 1929, at and within said District of Columbia, filed with said Clerk of the House of Representatives of the United States a certain other written report of said Ada L. Burroughs as such treasurer purporting to show receipts and disbursements of said political committee from January 1, 1929, to February 11, 1929.

5. Said James Cannon, jr., on October 17, 1928, at and within said District of Columbia, deposited in the bank of the Continental Trust Company there, to the credit of the account of "James Cannon, jr., chairman," two certain checks, each dated New York, October 16, 1928, and drawn by said E. C. Jameson upon the Lawyers Trust Company of New York, for the payment of $5,000.00 to the order of said James Cannon, jr., one of said checks being numbered 1785 and the other 1786.

6. Said James Cannon, jr., on October 23, 1928, at and within said District of Columbia, paid the sum of $2,000.00 to said political committee.

7. Said James Cannon, jr., on said October 23, 1928, at and within said District of Columbia, paid the sum of $832.50 to said political committee.

8. Said James Cannon, jr., on February 12, 1929, at and within said District of Columbia, sent by telegraph of the Postal Telegraph-Cable Company to said E. C. Jameson a certain day letter, that is to say, a day letter of the tenor following:

[Day Letter]

February 12, 1929.

E. C. Jameson, Mountain Lake Club, Lake Wales, Florida:

Tried talk long distance New York, but office closed Lincoln's birthday. After careful examination records, think

statement should be Quote Paid Headquarters Committee Anti-Smith Democrats seventeen thousand three hundred, paid Virginia Committee Anti-Smith Democrats forty eight thousand, making total sixty-five thousand three hundred. End Quote. This will correspond exactly with our official reports. Call Lincoln two-nine-four-six Washington any time after eight-thirty until midnight tonight, when leaving for New York. Sailing Thursday.

James Cannon, Jr.

Conclusion

And so the grand jurors aforesaid, upon their oath aforesaid, do say, that said defendants, at the time and place in this count aforesaid, in manner and form in this count aforesaid, unlawfully and feloniously did conspire to commit offenses against the United States and at the several times and at the place in this count aforesaid did do acts [fol. 16] to effect the object of the conspiracy; against the peace and dignity of the United States, and contrary to the form of the statute of the same in such case made and provided.

Leo A. Rover, United States Attorney.

(Endorsed:) Crim. No. 51159. United States vs. Ada L. Burroughs, James Cannon, jr. Sec. 252 (b), 252 (a), and 244, title 2, and sec. 88, title 18, U. S. C. Violation Federal corrupt practices act and conspiracy so to do. Witnesses: Rev. Arthur J. Barton, Rev. J. Sidney Peters, Hon. Wm. Tyler Page, Lee P. Oliver, Col. Wade H. Cooper, Charles W. Warden, Edwin C. Jameson, Harold F. Healey, Fred C. Wegener, Hon. Joseph S. Frelinghuysen, R. F. deClairmont, Ernest M. Kull, Perry Seay, John A. Booker, Samuel L. Barrow, Frank W. Sheffield, Charles B. Stevens, Rhae A. Meyers, Walter W. Johnston, Frank Lyon, Ruby B. Brooke, Edward J. Armbruster. A true bill: Theodore Bennett Gittings, foreman.

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In Supreme Court of District of Columbia

Demurrer—Filed November 2, 1931

* * * * * * *

Now come the defendants James Cannon, junior, and Ada L. Burroughs, by counsel, and they and each of them demur

to the indictment filed against them in this cause, and to each and every count thereof, and say that the said indictment and each and every count thereof is bad in substance.

Robert H. McNeill, H. W. Nice, Attorneys for Defendants.

Service of copy acknowledged this 2nd day of Nov. '31.

J. J. Wilson, Asst. U. S. Atty., D. C.

GROUNDS OF SAID DEMURRER

The grounds in support of the foregoing Demurrer are the following:

1. The act of Congress entitled the "Federal corrupt practices act," approved February 28, 1925 (Title II, U. S. Code, secs. 241-256), and section 244 thereof, upon which said act and section said indictment is based, is in violation of section 1 of Article II of the Constitution of the United States, in so far as it attempts to regulate contributions and expenditures made to influence the election of presidential and vice presidential electors in the several States, and in violation of Articles V, IX, X, and XII of the articles in addition to and amendments of the Constitution of the United States, and the said act of Congress is therefore unconstitutional, invalid, null, and void, for the reasons:

(a) That the only rights and duties vested by the Constitution of the United States in the National Government, [fol. 17] with regard to the appointment of the votes of presidential and vice presidential electors are by those provisions which authorize the Congress of the United States to determine the time of choosing the electors and the day on which they shall give their votes, and which direct that the certificate of their votes shall be opened by the president of the Senate in the presence of the two Houses of Congress, and the votes shall then be counted. (Constitution, Art. II, sec. 1, Amendments, Art XII). There being no constitutional authority for the attempted exercise of legislative power by Congress, the Federal corrupt practices act upon which the indictment is based is therefore unconstitutional, in so far as it relates to presidential and vice presidential electors.

(b) Presidential electors are State officers. Sec. 1, Art. II, of the Constitution of the United States provides:

"Each state shall appoint in such manner as the Legislature thereof may direct a number of electors equal to the whole number of Senators and Representatives to which the state may be entitled in Congress." The authority to provide for their appointment or selection and to enact laws with regard thereto is an exclusive function of the State legislatures; and the Federal corrupt practices act of February 28, 1925, which attempts to regulate contributions and expenditures made to influence the election of presidential and vice presidential electors violates the rights reserved to the States by sec. 1, Art. II, and XIIth amendment to the Constitution of the United States.

(c) Those provisions of the Federal corrupt practices act approved February 28, 1925, which attempt to regulate contributions and expenditures made to influence the election of presidential and vice presidential electors are violative of Art. IX of the amendments to the Constitution of the United States, which declares: "The enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people."

(d) Those provisions of the Federal corrupt practices act approved February 28, 1925, which attempt to regulate contributions and expenditures made to influence the election of presidential and vice presidential electors are violative of Art. X of the amendments to the Constitution of the United States, which provides: "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."

(e) The indictment, being based upon an unconstitutional statute, is a denial of due process of law guaranteed by Art. V of the amendments to the Constitution of the United States.

(f) That the said act of Congress is in violation of Art. V of the amendments to the Constitution of the United States because said act, if enforced against defendants, would deprive them of their liberty or property without due process of law.

(g) That by Art. II, sec. 1, of the Constitution, it is provided that each State shall appoint, in such manner as the legislature thereof may direct, a number of electors, equal

to the whole number of Senators and Representatives to which the State is entitled in the Congress * * * and by said article the power of Congress in enacting legislation upon the subject is limited as follows: "The Congress may [fol. 18] determine the time of choosing the electors, and the Day on which they shall give their votes; which day shall be the same throughout the United States," and there is no provision in Article XII of the amendments to the Constitution which enlarges the power of Congress to enact legislation regulating the election of electors or the expenditures of money with reference thereto, nor can such power be implied.

(h) Because each count of the indictment fails to allege facts which show or set forth the commission of any offense or the violation of any valid or constitutional statute of the United States.

And for such other and further reasons as may be shown upon a hearing upon this demurrer.

Robert H. McNeill, H. W. Nice, Attorneys for Defendants.

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IN SUPREME COURT OF DISTRICT OF COLUMBIA

ADDITIONAL POINTS IN SUPPORT OF DEMURRER—Filed November 13, 1931

* * * * * * *

As additional reasons why the demurrer heretofore filed herein should be sustained, the defendants, by their counsel, say:

The indictment is insufficient to inform the accused of the nature and cause of the accusation against them as required by Art VI of the amendments to the Constitution of the United States and to afford due process of law as guaranteed by Art V of the amendments to the Constitution of the United States for the reasons:

a. In each and every count of the indictment, there is a failure to allege facts which show, or from which may be inferred, the commission of any offense against or the violation of the Federal corrupt practices act, or any other statute of the United States, which omissions are to matters

of substance, and not of form only, in that there is a failure o charge, (1) who constituted the alleged political committee; (2) to whom the alleged contributions were paid; (3) that the alleged contributions were ever received by the treasurer; (4) or that the treasurer ever had knowledge of any such alleged contributions.

b. In each and every count of the indictment, there is an attempt to allege a statutory offense, but in none of them is the language of the statute followed. It is alleged in each count of the indictment that "contributions of money were made by one E. C. Jameson of New York for said political committee," whereas sec. 244 of the Federal corrupt practices act approved February 28, 1925, and each subsection thereof which purports to provide for the filing of reports by treasurers of political committees with the Clerk of the House of Representatives requires the name and address of each person who has made a contribution to or for such committee. The mere allegation that contributions were made for said political committee without charging that the alleged contributions were made to and for the said political committee is wholly insufficient to charge that the alleged [fol. 19] contributions were ever received by the committee or the treasurer thereof.

c. Counts numbered 1, 3, 5, 7 are insufficient in that there is an attempt in each to charge the treasurer of a political committee with a willful violation of the Federal corrupt practices act of February 28, 1925, by failing to make report of alleged contributions, each of which offenses is a felony under sec. 252 (b). In each and every one of said counts, there is a failure to charge the treasurer with knowledge of the alleged contributions or to allege facts sufficient in law to charge her with knowledge of the alleged contributions, which is an essential element of the offense of the willful violation of the statute and which omissions are matters of substance and not of form only.

d. The attempts in counts numbered 3 and 4 to charge the failure to file reports of alleged contributions on the 5th day next preceding the election of November 6, 1928, state no offense. If there was any duty resting upon the treasurer of the "Headquarters Committee of Anti-Smith

Democrats" to file with the Clerk of the House of Representatives a report listing the contributions alleged in these counts, the duty to make such report arose between the 10th and 15th days preceding the election of November 6, 1928, which offenses are attempted to be charged in counts numbered 1 and 2. Subsection 244 (b) of the corrupt practices act expressly provides:

"The statements required to be filed by subdivision (a) shall be comulative during the calender year to which they relate, but where there has been no change in an item reported in a previous statement only the amount need be carried forward."

Under the above provision for comulative reports, the Government having attempted to charge in the first and second counts the failure of the treasurer of the committee to file between the 10th and 15th days before the election of November 6, 1928, with the Clerk of the House of Representatives a report listing the alleged enumerated contributions, can not charge as a distinct offense the failure to report to the Clerk of the House of Representatives on the 5th day preceding the election the identical contributions by name, address, amount, and date of each contributor as is undertaken to be charged in the third and fourth counts.

e. It is alleged in counts numbered 1, 2, 3, and 4 that it became and was the legal duty of the treasurer of said political committee to file with the Clerk of the House of Representatives a statement complete as of the day next preceding the date of the filing thereof, if it should be filed, containing the name and address of said E. C. Jameson, the person who made the aforesaid contributions for said political committee aforesaid, together with the amount and date of each of said contributions. The allegation of the duty on the part of the treasurer to file a report, followed by the repugnant allegation, "if it should be filed," renders these counts vague, indefinite, uncertain, and insufficient in law to acquaint the accused with the offense sought to be charged.

f. It is alleged in counts numbered 7, 8, 9, and 10 that it became and was the legal duty of the treasurer of said political committee to file with the Clerk of the House of

[fol. 20] Representatives a statement complete as of the day next preceding the date of the filing thereof, if filed, containing the name and address of said E. C. Jameson, the person who made the aforesaid contributions for said political committee aforesaid, together with the amount and date of each of said contributions. The allegation of the duty on the part of the treasurer to file a report, followed by the repugnant allegation "if filed," renders these counts vague, indefinite, uncertain, and insufficient in law to acquaint the accused with the offense sought to be charged.

g. Because the alleged overt acts numbered 1, 2, 3, and 4 set forth in the ninth count, viz, the filing by the defendant Ada L. Burroughs, as treasurer of said political committee with the Clerk of the House of Representatives, of "a certain written report" on each of four respective dates, to wit: October 30, 1928, November 3, 1928, January 2, 1929, and February 15, 1929, "purporting to show receipts and disbursements" from September 1, 1928, through October 25, 1928, from July, 1928, to January 1, 1929, from January 1, 1929, to February 11, 1929; the foregoing allegations are the conclusions of the pleader without the allegation precedent facts justifying such conclusions that the aforesaid reports "purported to show receipts and disbursements."

h. Because the ninth count contradicts the first, third, fifth, and seventh counts, which are incorporated in said ninth count as parts of the said ninth count, in this respect, that in each of the first, third, fifth, and seventh counts it is alleged that there was a failure to file with said Clerk, in the District of Columbia "any such statement whatever, pertaining to said contributions, containing such information" whereas in each of the first four overt acts, it is alleged that reports were filed on the dates aforesaid and said reports are set forth in said ninth count.

i. Because the items in said overt acts numbered 6 and 7 in said ninth and tenth counts, viz, that the payments of $2,000 and $832.50 respectively, on October 23, 1928, by defendant James Cannon, jr., to said political committee do not correspond with any of the amounts listed in any of the counts and they were not included in the several reports made by defendant Ada L. Burroughs to the Clerk of the House of Representatives as alleged in overt acts numbered 1, 2, 3, and 4, inclusive, in said ninth and tenth counts.

j. Because the tenth count contradicts the second, fourth, sixth, and eighth counts in this respect: That in each of the said second, fourth, sixth, and eighth counts it is alleged that there was a failure to file with said Clerk, in the District of Columbia, "any such statement or any statement whatever, pertaining to said contributions, containing any such information" whereas in respect to each of the first four overt acts it is alleged that the reports were filed on the dates aforesaid and are set forth in said tenth count.

k. Because the ninth and tenth counts charge a conspiracy to falsify a report of contributions alleged to have been received in the calendar year 1928 in the report filed February 14, 1929, whereas the statute does not require that the report for the first quarter of the year, due March 10, 1929, which said report of February 14, 1929, antici- [fol. 21] pated, show any contributions received during the preceding year.

Robert H. McNeil, Harry W. Nice, Attorneys for Defendants.

Nov. 13, 1931.

Service of copy accepted.

Leo. A. Rover, O'L.

IN SUPREME COURT OF DISTRICT OF COLUMBIA

MEMORANDUM OPINION ON DEMURRER TO INDICTMENT—
Filed February 15, 1932

* * * * * * *

Several counts of the indictment accuse the defendants, Ada L. Burroughs, treasurer of a political committee to influence election of presidential and vice presidential electors, and James Cannon, jr., as her accomplice, with violating the corrupt practices act by failing to file statements of certain contributions made for the committee. Other counts accuse the defendants with conspiracy to commit the offenses described in the counts mentioned above. Every count is grounded upon an alleged failure to report contributions made by one Jameson for the committee, rather than directly to it. There is no allegation as to whom any contribution was actually delivered by Jameson, or that

the recipient made any report or accounting to Burroughs, the treasurer, nor is it shown that she had knowledge thereof.

The defendants by demurrer challenge the constitutionality of those provisions of the corrupt practices act which relate to presidential and vice presidential electors; also the sufficiency of the indictment as a pleading. Among the latter objections it is contended that no offense has been stated because of the failure to allege as a fact that the Jameson contributions were reported and accounted for to Burroughs, treasurer, or that she had knowledge thereof. It is insisted that such an allegation is necessary because the true meaning and intention of section 244 of the act requires the treasurer of a political committee to report only such contributions as are received directly by him and those received by others which have been duly reported and accounted for to him; and further, at all events the indictment should show that the treasurer had knowledge of indirect contributions before being chargeable with a failure to include them in the statements which he must file under the law.

In my opinion these objections are well taken. A consideration of section 244, in the light of all other related provisions of the act, leads fairly to the conclusion that the legislative intention is to require the treasurer of a political committee to report only contributions received by him and those duly reported to or accounted for to him. Certainly it was not intended to hold one criminally responsible for failure to report a contribution of which he had no knowledge. This is a proposition advanced by the Government to which I can not assent. It calls for an unreasonable and harsh construction which is neither warranted by the nature of the act, its language, nor its intent. Given [fol. 22] such a meaning, a treasurer who had filed a statement honestly and correctly, revealing every contribution known to him, would nevertheless be liable to prosecution because of an inevitable omission of a contribution made for the committee to another of which he had no knowledge. No such unjust purpose can be attributed to this legislation.

Nor can I accept the alternative contention that those counts which charge a wilful failure by Burroughs to report contributions made for the committee impute to her knowledge of contributions received by another. The term "wil-

ful," as used in these counts, is merely an adoption of the word employed in section 252 to differentiate in the penalties between a purposed and intentional violation of the act and one occurring thoughtlessly or accidentally through inadvertance or mistake. The reasoning and authorities in support of these theories are, I think, based upon fundamental misconceptions.

In my judgment, for the reasons mentioned, all counts of the indictment as drawn fail to allege facts essential to constitute any criminal offense. The demurrer must, therefore, be sustained as to each count. An order will be entered accordingly.

As this action disposes of the indictment it becomes unnecessary to pass upon the constitutional question presented by the demurrer; nor would it, on reason and authority, be proper to do so.

Unavoidable conditions have precluded me from writing an opinion fully presenting my views in support of the foregoing conclusions. I have thought it better to dispose of the matter now upon this memorandum, which may later be supplemented by a more complete statement.

Dated February 12, 1931.

James M. Proctor, Justice.

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IN SUPREME COURT OF DISTRICT OF COLUMBIA

JUDGMENT—February 15, 1932

The court resumes its session pursuant to adjournment: Mr. Justice Proctor, presiding.

* * * * * * *

Come as well the attorney of the United States, as the defendants by their attorney Levi H. David, Esquire; whereupon the defendants' demurrer heretofore submitted to the court, is by the court sustained and the indictment is dismissed; and thereupon it is considered by the court that each of the said defendants go thereof without day, to which action of the court the attorney of the United States prays an exception, which is noted; whereupon the attorney of the United States notes an appeal to the Court of Appeals of the District of Columbia from the judgment of the court.

IN SUPREME COURT OF DISTRICT OF COLUMBIA

ASSIGNMENT OF ERRORS—Filed April 1, 1932

* * * * * * *

Now comes the United States, appellant herein, by Leo A. Rover, United States attorney, and assigns as error the following:

[fols. 23 & 24] 1. The court erred in holding that all counts of the indictment as drawn failed to allege facts essential to constitute any criminal offense.

2. The court erred in sustaining the demurrer to the indictment.

3. The court erred in entering the final order herein.

Leo A. Rover, United States Attorney. John J. Wilson, Assistant United States Attorney. James R. Kirkland, Assistant United States Attorney.

Service of a copy of the foregoing assignment of errors is acknowledged, this first day of April, 1932.

R. H. McNeill, Attorney for Defendants.

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IN SUPREME COURT OF DISTRICT OF COLUMBIA

DESIGNATION OF RECORD—Filed March 1, 1932

* * * * * * *

Now comes the United States, appellant herein, by Leo A. Rover, United States attorney, and designates the parts of the record which it desires to have included in the transcript, said parts being considered sufficient for the determination of the questions raised on appeal, namely:

1. Indictment.
2. Demurrer.
3. Additional points of demurrer.
4. Memorandum opinion of the court.
5. Entry of judgment.
6. Notation of appeal.
7. Assignment of errors.
8. This designation.

Leo A. Rover, United States Attorney. John J. Wilson, Assistant United States Attorney. James K. Kirkland, Assistant United States Attorney.

Service of a copy of the foregoing designation of record acknowledged this 1st day of March, 1932.

Robert H. McNeill, by Geo. H. McNeil, Attorney for Defendants.

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Clerk's certificate to foregoing transcript omitted in printing.

Monday, October 31st, A. D. 1932.

* * * * * * *

No. 5653

UNITED STATES, Appellant,

vs.

ADA L. BURROUGHS and JAMES CANNON, JR.

The argument in the above entitled cause was commenced by Mr. John J. Wilson, attorney for the appellant, and was continued by Messrs. R. H. McNeill and L. H. David, attorneys for the appellees, and was concluded by Mr. John J. Wilson, attorney for the appellant.

On motion the appellees are allowed to file additional authorities.

(Mr. Justice Robb did not sit in this case.)

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COURT OF APPEALS OF THE DISTRICT OF COLUMBIA

No. 5653

UNITED STATES, Appellant,

v.

ADA L. BURROUGHS and JAMES CANNON, JR.

Appeal from the Supreme Court of the District of Columbia

Before Martin, Chief Justice, and Van Orsdel, Hitz, and Groner, Associate Justices

(Argued October 31, 1932. Decided May 15, 1933)

Leo A. Rover, United States Attorney, and John J. Wilson, James R. Kirkland, and Roger Robb, Assistant United States Attorneys, all of Washington, D. C., for appellant.

Robert H. McNeill and Levi H. David, both of Washington, D. C., and H. Woodward Winburn, of Greensboro, N. C., for appellees.

MARTIN, Chief Justice:

An appeal by the United States from an order of the Supreme Court of the District of Columbia sustaining a demurrer to an indictment charging a violation of the Federal Corrupt Practices Act of February 28, 1925 (ch. 368, title III, sec. 301 et seq., 43 Stat. 1053, 1070), incorporated in the U. S. Code as sec. 241 et seq., ch. 8, title 2.

The pertinent provisions of the act as set forth in title 2, U. S. Code, read as follows:

"Section 241. (c) The term "political committee" includes any committee, association, or organization which accepts contributions or makes expenditures for the purpose of influencing or attempting to influence the election of candidates or presidential and vice-presidential electors (1) in two or more States, or (2) whether or not in more than one State if such committee, association, or organization (other than a duly organized State or local committee of a political party) is a branch or subsidiary of a national committee, association, or organization.

"Section 242. *Chairman and Treasurer of Political Committee; Duties as to Contributions; Accounts and Receipts.*—(a) Every political committee shall have a chairman and a treasurer. No contribution shall be accepted, and no expenditure made, by or on behalf of a political committee for the purpose of influencing an election until such chairman and treasurer have been chosen.

"(b) It shall be the duty of the treasurer of a political committee to keep a detailed and exact account of—

"(1) All contributions made to or for such committee;

"(2) The name and address of every person making any such contribution, and the date thereof;

"(3) All expenditures made by or on behalf of such committee; and

"(4) The name and address of every person to whom any such expenditure is made, and the date thereof.

"(c) It shall be the duty of the treasurer to obtain and keep a receipted bill, stating the particulars, for every expenditure by or on behalf of a political committee exceed-

ing $10 in amount. The treasurer shall preserve all receipted bills and accounts required to be kept by this section for a period of at least two years from the date of the filing of the statement containing such items.

"Section 243. *Accounts of Contributions Received.*—Every person who receives a contribution for a political committee shall, on demand of the treasurer, and in any event within five days after the receipt of such contribution, render to the treasurer a detailed account thereof, including the name and address of the person making such contribution, and the date on which received.

"Section 244. *Statements by Treasurer Filed with Clerk of House of Representatives.*—(a) The treasurer of a political committee shall file with the Clerk between the 1st and 10th days of March, June, and September in each year, and also between the 10th and 15th days, and on the 5th day, next preceding the date on which a general election is to be held, at which candidates are to be elected in two or more States; and also on the 1st day of January a statement containing, complete as of the day next preceding the date of filing—

"(1) The name and address of each person who has made a contribution to or for such committee in one or more items of the aggregate amount of value, within the calendar year, of $100 or more, together with the amount and date of such contribution;

"(2) The total sum of the contributions made to or for such committee during the calendar year and not stated under paragraph (1);

"(3) The total sum of all contributions made to or for such committee during the calendar year;

"(4) The name and address of each person to whom an expenditure in one or more items of the aggregate amount or value, within the calendar year, of $10 or more has been made by or on behalf of such committee, and the amount, date, and purpose of such expenditure;

"(5) The total sum of all expenditures made by or on behalf of such committee during the calendar year and not stated under paragraph (4);

"(6) The total sum of expenditures made by or on behalf of such committee during the calendar year.

"(b) The statements required to be filed by subdivision (a) shall be cumulative during the calendar year to which they relate, but where there has been no change in an item reported in a previous statement only the amount need be carried forward.

"(c) The statement filed on the 1st day of January shall cover the preceding calendar year.

"Section 252. General Penalties for Violations.—(a) Any person who violates any of the foregoing provisions of this chapter, except those for which a specific penalty is imposed by section 208 of title 18, and section 251 of this title, shall be fined not more than $1,000 or imprisoned not more than one year, or both.

"(b) Any person who willfully violates any of the foregoing provisions of this chapter, except those for which a specific penalty is imposed by section 208 of title 18, and section 251 of this title, shall be fined not more than $10,000 and imprisoned not more than two years."

The appellees, Ada L. Burroughs and James Cannon, Jr., were indicted by a grand jury of the District of Columbia for an alleged violation of section 244 of the foregoing act. The indictment is in ten counts. The first eight counts charge the defendants with violations of the act and the last two counts charge them with conspiracy to violate the same. In the first, third, fifth, and seventh counts the charge is made that the defendants willfully violated the statute. In the second, fourth, sixth, and eighth counts it it not charged that the offense was willfully committed. In the first conspiracy count the charge is made that the offense was willfully committed. In the second of these counts the word "willfully" is omitted from the charge. We shall take the first and second counts as illustrative of the first eight counts.

The first count charges that Burroughs from July 22, 1928, to March 16, 1929, was the treasurer of a certain political committee which then accepted contributions and made expenditures for the purpose of influencing and attempting to influence the election of Presidential and Vice Presidential electors in two States; that at divers times

during that period various contributions of money were made by one E. C. Jameson for said political committee, aggregating the sum of $58,000; that it thereafter, and during said period of time, to wit, between the 10th and 15th days next preceding November 6, 1928, the date on which a general election was held at which candidates and Presidential and Vice Presidential electors were elected in the several States of the United States, became and was the lawful duty of said Burroughs, as such treasurer of said political committee, to file with the Clerk of the House of Representatives of the United States a statement, complete as of the day next preceding the date of the filing thereof, if it should be filed, containing the name and address of said E. C. Jameson, the person who made said contributions for said political committee as aforesaid, together with the amount and date of each of said contributions. The indictment further alleges that during said period of time, and while she was treasurer of said political committee, said Burroughs unlawfully and feloniously did willfully violate section 244 of chapter 8 of title 2 of the United States Code aforesaid, by then and there unlawfully and feloniously willfully failing to file with said Clerk, to wit, in said District of Columbia, any such statement, or any statement whatever, pertaining to said contribution, containing any such information; and that at and within the District of Columbia the appellee Cannon during said period of time, well knowing all the premises aforesaid, unlawfully and feloniously did willfully aid, abet, and procure the commission of the above-described offense on the part of said Burroughs, and so was then and there a principal in the commission of that offense.

The second count of said indictment contained the same allegations of facts as those contained in the first count, except for the omission of the words "feloniously and willfully" therefrom, charging only that the failure of Burroughs to file said statement was "unlawfully" done. The count, however, charged that Cannon unlawfully did willfully aid and abet Burroughs in the commission of the offense.

The appellees filed a demurrer to the indictment upon the grounds, first, that the Federal Corrupt Practices Act and section 244 thereof were and are unconstitutional; and, second, that the indictment is insufficient to inform the

accused of the nature and cause of the accusation against them and to afford due process of law as guaranteed by the Constitution of the United States.

The demurrer was submitted to the lower court and was sustained upon the second of the grounds therein set out.

The United States thereupon appealed from that decision to this court. The appellees then filed a motion in this court to dismiss the appeal upon the ground that under the Criminal Appeals Act (18 U. S. C., sec. 682) the appeal should have been taken directly to the Supreme Court of the United States, and consequently that this court was without jurisdiction to entertain it. However, in answer to interrogatories certified by us to the United States Supreme Court, this court was instructed that under section 935, D. C. Code, we possess jurisdiction over the several issues presented by the appeal. United States v. Ada L. Burroughs and James Cannon, Jr., Supreme Court of the United States, decided April 10, 1933.

The appellees contend that the sections of the Federal Corrupt Practices Act relating to Presidential electors, upon which the indictment is based, are unconstitutional for the reason that such provisions attempt to regulate the political activities pertaining to the appointment of the electors, whereas the Constitution confers upon the State legislatures the exclusive power of appointing Presidential electors, together with authority over all acts relating thereto except the time of choosing such electors. The appellees contend that there is no inherent or implied power in Congress to regulate the appointment of such electors or any other proceedings relating to them. In support of these propositions appellees cite McPherson v. Blacker, 146 U. S. 1; In re Green, 134 U. S. 377; Todd v. Johnson, 99 Ky. 548; Donelan v. Byrd, 118 Ky. 178; Mason v. State, 55 Ark. 529; United States v. Brewers Association, 239 Fed. 163; In re Opinion of Justices (1919), 118 Me. 552; In re Opinion of Justices (1921), 80 N. H. 595; Newberry v. United States, 256 U. S. 232.

We do not think that the decision of the present case depends upon the propositions advanced by appellees, inasmuch as section 244, supra, under which the indictment in this case is brought, does not attempt to interfere in any manner with the appointment of Presidential electors, nor to control the official conduct or proceedings of such electors

when appointed. The section does no more than provide that in case of the voluntary organization of political committees which accept contributions or make expenditures for the purpose of influencing or attempting to influence the election of Presidential and Vice Presidential electors, it shall be necessary that a public statement be made in a prescribed manner showing the amount of money received and expended by such committee for such purpose. No attempt is thereby made to prescribe any penalty for the commission or omission of any act upon the part of the Presidential electors themselves, nor to impose any duty upon them. Nor does the act undertake to regulate the action or proceedings of such committees in respect to the collection or distribution of funds nor any other activity designed to aid in electing or defeating any Presidential electors. The section simply requires that an account of such collections and distributions shall be made public. The national importance of such publicity is obvious. It should be remembered that the duty rests upon the Senate and House of Representatives to aid in counting the electoral votes, and also a contingent duty, which is potentially present in the election of every President, namely, the ultimate power reposed in the House of Representatives to elect the President, and the power reserved in the Senate to elect the Vice President, in the event of certain contingencies prescribed by the twelfth amendment to the Constitution.

The constitutional authority for the enactment by Congress of such legislation as is herein involved is derived from article I, section 8, clause 18, of the Constitution, sometimes called the "implied power clause" or the "elastic clause", which reads as follows:

"The Congress shall have power * * * To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof."

In Ex Parte Yarbrough, 110 U. S. 651, 666, Mr. Justice Miller, speaking for the court, said:

"That a governmental whose essential character is republican, whose executive head and legislative body are

both elective, whose most numerous and powerful branch of the legislature is elected by the people directly, has no power by appropriate laws to secure this election from the influence of violence, of corruption, and of fraud, is a proposition so startling as to arrest attention and demand the gravest consideration. * * * The proposition that it has no such power is supported by the old argument, often heard, often repeated, and in this court never assented to, that when a question of the power of Congress arises the advocate of the power must be able to place his finger on words which expressly grant it. * * * It destroys at one blow, in construing the Constitution of the United States, the doctrine universally applied to all instruments of writing, that what is implied is as much a part of the instrument as what is expressed. This principle, in its application to the Constitution of the United States, more than to almost any other writing, is a necessity, by reason of the inherent inability to put into words all derivative powers—a difficulty which the instrument itself recognizes by conferring on Congress the authority to pass all laws necessary and proper to carry into execution the powers expressly granted and all other powers vested in the Government or any branch of it by the Constitution. Article I, section 8, clause 18."

In Fairbanks v. United tSates, 181 U. S. 283, 287, the court said:

"We proceed upon the rule often expressed in this court that an act of Congress is to be accepted as constitutional, unless on examination it clearly appears to be in conflict with provisions of the Federal Constitution. * * * Further, by the last clause of section 8, article I, Congress is authorized 'to make all laws which shall be necessary and proper for carrying into execution the foregoing powers and all other powers vested by this Constitution in the Government of the United States, or in any department, or officer thereof.' This construed on the same principles vests in Congress a wide range of discretion as to the means by which the powers granted are to be carried into execution."

In United States v. Gettysburg Electric Railway, 160 U. S. 668, 680, the court said:

"In examining an act of Congress it has been frequently said that every intendment is in favor of its constitutionality. Such act is presumed to be valid unless its invalidity is plain and apparent; no presumption of invalidity can be indulged in; it must be shown clearly and unmistakably. This rule has been stated and followed by this court from the foundation of the Government."

It is also contended by appellees that the indictment is fatally defective because it fails to allege that Burroughs as treasurer of the committee had knowledge of the Jameson contributions at any time named in the indictment. The lower court adopted this view and accordingly sustained the demurrer.

We are of the opinion that this was error. In the first, third, fifth, and seventh counts of the indictment it is stated that defendant Burroughs "unlawfully and feloniously did willfully violate" the requirements of the statute by "unlawfully and feloniously willfully failing to file" the required statement. These terms in the indictment sufficiently charge scienter on the part of the defendant.

In Potter v. United States, 155 U. S. 438, 446, the defendant was indicted under a criminal statute, providing that "any officer, clerk, or agent of any national banking association who shall willfully violate the provisions of an act entitled 'An act in reference to certifying cheques by national banks' * * * shall be deemed guilty of a misdemeanor * * *", the court, speaking of the word "willfully" when used in the act, said:

"It implies on the part of the officer knowledge and a purpose to do wrong. Something more is required than an act of certification made in excess of the actual deposit, but in ignorance of that fact or without any purpose to evade or disobey the mandates of the law. The significance of the word 'willful' in criminal statutes has been considered by this court. In Felton v. United States, 96 U. S. 699, it was said: 'Doing or omitting to do a thing knowingly and willfully implies not only a knowledge of the thing but a determination with a bad intent to do it or to omit doing it. "The word 'willfully' ", says Chief Justice Shaw, "in the ordinary sense in which it is used in statutes means not merely 'voluntarily' but with a bad purpose." ' 20 Pick. (Mass.) 220. "It is frequently understood," says Bishop,

"as signifying an evil intent without justifiable excuse." ' Crim. Law, vol. 1, sec. 428.

In Spurr v. United States, 174 U. S. 728, which was a prosecution for "willfully violating" the banking act, the Supreme Court held that it was error for the trial court not to instruct the jury clearly that a "willful violation" was a violation with knowledge of the facts and a purpose to do wrong. In Foster v. United States, 256 Fed. 207, which was a prosecution under Penal Code, sec. 225, making it embezzlement for a postmaster to fail to remit or fail or refuse to surrender money-order funds on demand of an authorized agent of the Postmaster General, it was held that no specific intent was involved in the crime and that therefore it was enough for the indictment to allege that the defendant acted "willfully," the word "willfully" implying knowledge and a purpose to do wrong. In Johnson v. United States, 260 Fed. 783, the court held that "willfully means intentionally or knowingly".

In the light of these authorities, it is manifest that the allegation that Burroughs "did willfully violate" the statute by "willfully failing to file" a statement means that Burroughs acted with knowledge of the contributions and of her duty to report them.

In the second, fourth, sixth, and eighth counts of the indictment the term "willfully" does not appear, the charge being that the offense was "unlawfully" committed. However, the crime charged in these counts is purely statutory and the statute makes no mention therein of a specific intent. In such cases it is held that whether scienter is a necessary element of the crime, though not expressed in the statute, is a question of legislative intent to be answered by a construction of the statute, and that punishment for an illegal act done by one in ignorance of the facts making it illegal, is not necessarily contrary to due process of law. United States v. Balint, 258 U. S. 250; United States v. Behrman, 258 U. S. 280, 288.

The legislative purpose above referred to is clearly shown by sections 252 (a) and 252 (b), supra, whereby it is provided that any person who violates any of the provisions of the act shall be fined not more than $1,000 or imprisoned not more than one year, or both, whereas any person who willfully violates any of these provisions shall

be fined not more than $10,000 and imprisoned not more than two years.

These provisions indicate that Congress used the word "willfully" in the act as importing scienter. The difference in penalties provided thereby for a willful violation of the act as compared with a violation not willful, indicates that the former must be knowingly and intentionally done.

On the other hand, the offense may be unlawfully but not willfully committed, as in case the treasurer fails to file the required statement solely through ignorance of the law, or through carelessness, inadvertence, neglect, or similar cause. It will always be presumed, however, that the treasurer possesses knowledge of contributions which are made to or for the committee and the distributions made by it in the course of its activities. But if the treasurer in any instance should have no knowledge of a contribution and could not have acquired knowledge thereof by the bona fide exercise of reasonable care and diligence in the performance of the duties of the office, the failure to file a statement of such contribution would be neither willful nor unlawful.

It follows that the counts of the indictment sufficiently charge an offense under the statute. They are drawn in the language of the statute and are sufficient to enable the accused to know the nature and the cause of the accusation and to plead the judgment, if one be rendered, in bar of further prosecution of the same offense. In the case of statutory offenses such as this, this is sufficient.

The order of the lower court sustaining the demurrer to the indictment is therefore reversed and the cause is remanded for further procedings not inconsistent herewith.

Mr. Justice Van Orsdel, dissenting:

I cannot agree with the opinion and judgment of the court in this case. The corpus delicti, or the body of the crime as laid in the statute, consists of a political committee, as defined therein, receiving funds, using them, and failing to make a detailed report thereof to the Clerk of the House of Representatives. The indictment fails to allege that any funds ever came into the possession of the committee or any person connected with the committee. Thus it appears that the first essential element leading to the

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possible commission of the crime is lacking, and without possession there can be no distribution; hence, in the absence of these two fundamental elements, the failure to report is not a crime, since to meet the requirements of the statute there is nothing to report. The essence of the crime is failing to report money that came into the possession of the committee, and from whom received, and funds paid out by the committee, and to whom such payments were made. In other words, the indictment fails to charge the crime defined in the statute, or any offense whatever. It is an elementary rule of criminal pleading, that, until the fact that the crime has been actually perpetrated and proved, in the manner alleged in the indictment, there can be no conviction.

Nowhere in the indictment is it charged that the treasurer of the committee had any knowledge of the existence of the funds in question. The mere allegation in the indictment that the money was paid for the committee without any averment as to whom it was paid, or that it ever reached the committee or anyone connected with the committee, falls far short of charging the crime laid in the statute, or of imputing guilty knowledge to the officer required to report, or to anyone else. Proof of the commission of the crime under this indictment, to sustain a conviction of defendants, is impossible, if the rules of evidence are observed. It undoubtedly is the law that where a crime is laid in the indictment and the defendant is charged with its willful commission, guilty knowledge may be implied; but this implication will never arise where the indictment, as in this case, fails to set out the elements essential to charge a crime.

A true copy. Teste:

——, Clerk Court of Appeals, D. C.

Monday, May 15th, A. D. 1933.

No. 5633, April Term, 1933

UNITED STATES, Appellant,

vs.

ADA L. BURROUGHS and JAMES CANNON, JR.

Appeal from the Supreme Court of the District of Columbia

This cause came on to be heard on the transcript of the record from the Supreme Court of the District of Columbia and was argued by counsel.

On consideration whereof, It is now here ordered and adjudged by this Court that the order of the lower court sustaining the demurrer to the indictment is therefore reversed and that this cause be and the same is hereby remanded to the said Supreme Court for further proceedings not inconsistent with the opinion of this Court.

Per Mr. Chief Justice Martin, May 15, 1933.

Mr. Justice Van Orsdel dissenting.

Mr. Justice Robb took no part in the consideration or decision of this case.

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[Endorsed:] No. 5,653. United States, appellant, v. Cannon & Burroughs, appellees. Motion for rehearing, &c. For appellees: R. H. McNeill, & Levi H. David. Court of Appeals, District of Columbia. Filed May 29, 1933. Henry W. Hodges, Clerk.

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Saturday, June 10th, A. D. 1933.

No. 5653

UNITED STATES, Appellant,

vs.

ADA L. BURROUGHS and JAMES CANNON, JR.

On consideration of the motion for a rehearing or stay of mandate in the above entitled cause, It is ordered that

a rehearing be and it hereby is denied; and it is further ordered that the mandate be and it hereby is stayed under Rule 24 pending application for certiorari.

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IN THE COURT OF APPEALS OF THE DISTRICT OF COLUMBIA

No. 5653

UNITED STATES OF AMERICA, Appellant,

vs.

ADA L. BURROUGHS and JAMES CANNON, JR., Appellees

DESIGNATION OF RECORD

The Clerk of the Court of Appeals of the District of Columbia, in the preparation of the transcript of record on petition for certiorari of the above case to the Supreme Court of the United States, will include the following papers, namely:

1. Transcript of Record.
2. Memorandum; as to the argument of the case in the Court of Appeals.
3. Opinion of the Court of Appeals.
4. Dissenting opinion of Justice Van Orsdel.
5. Judgment.
6. Motion for Rehearing and stay of mandate, and orders of the Court on said motion.
7. This designation.
8. Clerk's certificate.

Robert H. McNeill, Investment Bldg., Attorney for Appellees, Ada L. Burroughs and James Cannon, Jr.

[Endorsed:] No. 5653. United States of America, appellant, vs. Ada L. Burroughs, and James Cannon, Jr., appellees. Designation of record. Robert H. McNeill, 700 Investment Bldg. Court of Appeals, District of Columbia. Filed Jul. 10, 1933. Henry W. Hodges, Clerk.

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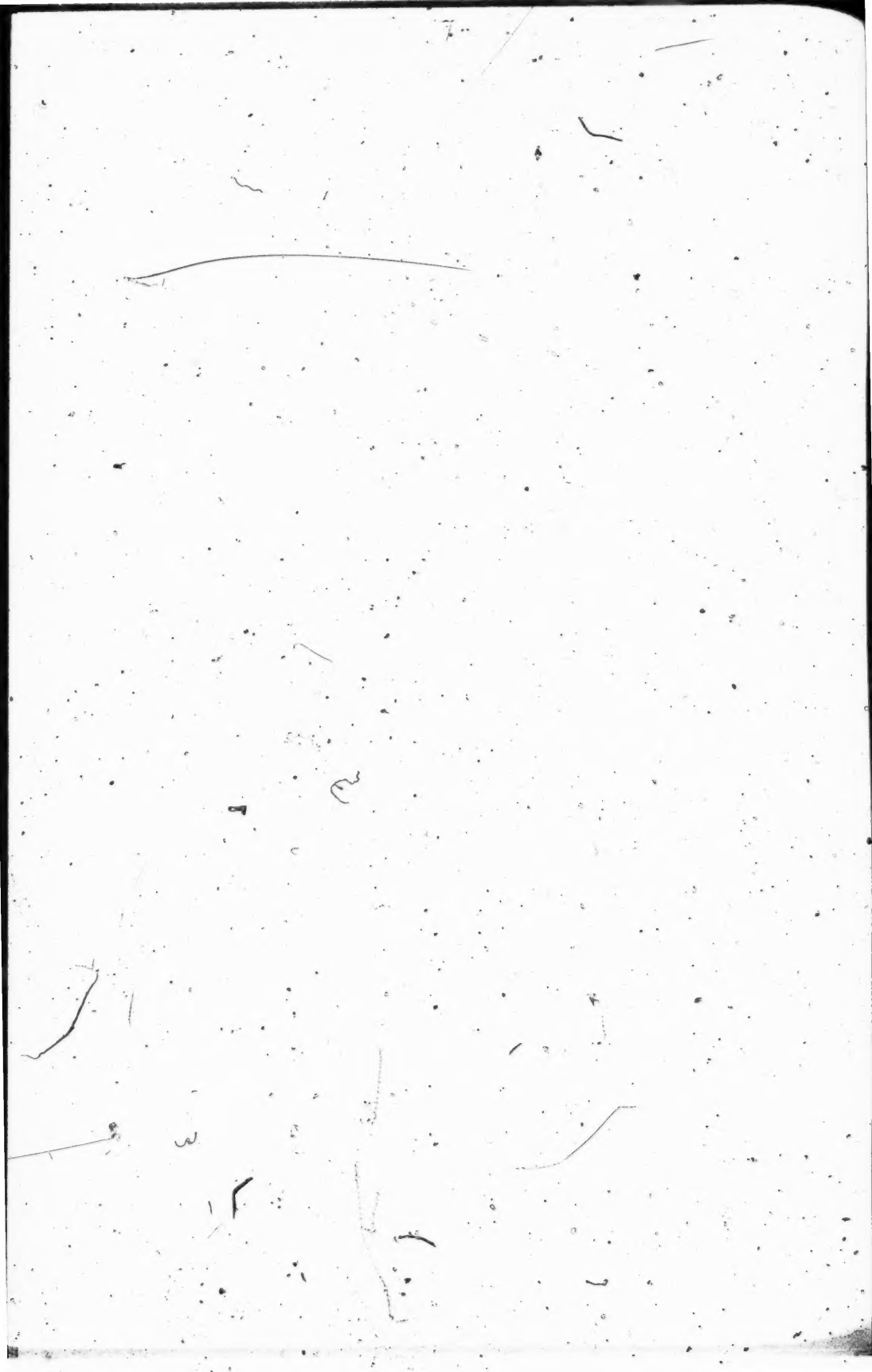
COURT OF APPEALS OF THE DISTRICT OF COLUMBIA

I, Henry W. Hodges, Clerk of the Court of Appeals of the District of Columbia, do hereby certify that the fore-

going printed and typewritten pages, numbered from 1 to 53, inclusive, constitute a true copy of the transcript of record and proceedings of said Court of Appeals as designated by counsel in the case of United States, appellant, vs. Ada L. Burroughs and James Cannon, Jr., No. 5653, April Term, 1933, as the same remain upon the files and records of said Court of Appeals.

In testimony whereof I hereunto subscribe my name and affix the seal of said Court of Appeals, at the City of Washington, this 11th day of July, A. D. 1933.

Henry W. Hodges, Clerk of the Court of Appeals of the District of Columbia. (Seal Court of Appeals, District of Columbia.)



[fol. 40] SUPREME COURT OF THE UNITED STATES

ORDER ALLOWING CERTIORARI—Filed October 23, 1933

The petition herein for a writ of certiorari to the Court of Appeals of the District of Columbia is granted, and the case is advanced and assigned for argument on Monday, December 4, next.

And it is further ordered that the duly certified copy of the transcript of the proceedings below which accompanied the petition shall be treated as though filed in response to such writ.

(4118)